



DUKE HOLZMAN

Gregory P. Photiadis	Charles C. Ritter, Jr.
James W. Gresens	Matthew J. Beck
Peter G. Ruppar ++	Elizabeth A. Kraengel **
Michael J. Lombardo +	Barbara B. Strzemski-Haase
Howard E. Berger	John D. Celani *
Dennis P. Cleary	Steven W. Klutkowski ***
Gary M. Kanaley *	Christopher M. Berloth
Robert L. Bencini	Ryan G. Ganzenmuller
Patricia Gillen	

Anthony J. Colucci, Jr. +*
Special Counsel
Richard A. Moore
Of Counsel
Edwin P. Yeager
(1934 - 1992)
Emanuel Duke
(1916 - 1999)
+ Also Admitted in FL
++ Also Admitted in MA
* Also Admitted in PA
** Also Admitted in TX
*** Also Admitted in NJ

January 15, 2016

**Via Facsimile and First Class Mail**

Chambers of Hon. Paul G. Gardephe  
 United States District Court  
 Southern District of New York  
 40 Foley Square, Room 2204  
 New York, New York 10007  
 Tel: (212) 805-0224  
 Fax: (212) 805-7986

**Re: Metropolitan Life Insurance Company v.  
 Sicoli and Massaro Inc. Pension Trust, et al.  
 Case No. 1:15-cv-07141**

Dear Hon. Gardephe:

The undersigned are attorneys for Plaintiff Metropolitan Life Insurance Company ("MetLife") and Defendant Sicoli and Massaro Inc. Pension Trust ("SMI"), respectively, in the above named action. A pretrial conference was held on December 17, 2015, at which time you directed the parties to explore settlement and report back by January 17, 2016, regarding whether a settlement could be accomplished. If a settlement could not be reached, you requested that the parties provide a briefing schedule for SMI's motion to dismiss or alternatively to transfer venue. You also indicated that an appropriate briefing schedule for SMI's motion would be two weeks for the motion and opposition papers, and one week for the reply papers.

Subsequent to the pretrial conference, counsel for the parties explored settlement during multiple telephone conferences. Unfortunately, although each party was willing to make concessions, the parties remain too far apart on the value of a reasonable settlement to reach an agreement.

Because the parties are unable to reach a reasonable settlement, the undersigned agree to the following briefing schedule for SMI's motion to dismiss or alternatively to transfer venue:

- SMI's motion and supporting papers must be uploaded by February 15, 2016;

t 716.855.1111 f 716.855.0327 (NOT FOR SERVICE OF PAPERS)  
[www.dhpglaw.com](http://www.dhpglaw.com)

- MetLife's opposition to SMI's motion must be uploaded by March 15, 2016;
- SMI's reply in further support of its motion must be uploaded by March 22, 2016;

Please feel free to contact us if you have any questions or would like to discuss this matter further.

Very truly yours,

/s/Michael H. Bernstein  
Michael H. Bernstein, Esq.  
*Attorneys for Plaintiff MetLife*  
Sedgwick LLP  
225 Liberty Street, 28th Floor  
New York, New York 10281  
(212) 422-0202  
[michael.bernstein@sedgwicklaw.com](mailto:michael.bernstein@sedgwicklaw.com)

/s/ Steven W. Klutkowski  
Steven W. Klutkowski, Esq.  
*Attorneys for Defendant SMI*  
Duke Holzman Photiadis & Gresens  
701 Seneca Street, Suite 750  
Buffalo, New York 14210  
(716) 855-1111  
[sklutkowski@dhpqlaw.com](mailto:sklutkowski@dhpqlaw.com)

SWK